

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Haeley Galeote	Team: Squad #14	CCRB Case #: 202106456	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 09/13/2021 2:00 PM	Location of Incident: § 87(2)(b)	18 Mo. SOL 3/13/2023	Precinct: 66		
Date/Time CV Reported Tue, 10/19/2021 2:30 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 10/25/2021 12:02 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. PO Cisco Ortiz	08329	949425	066 PCT
2. PO John Przybyszewski	29776	966284	066 PCT
3. PO Cody Fortunato	19653	958600	066 PCT
4. PO Jon Wright	05367	934264	066 PCT

Officer(s)	Allegation	Investigator Recommendation
A. PO Cody Fortunato	Abuse: Police Officer Cody Fortunato forcibly removed § 87(2)(b) to the hospital.	§ 87(2)(b)
B. PO Jon Wright	Abuse: Police Officer Jon Wright forcibly removed § 87(2)(b) to the hospital.	§ 87(2)(b)
C. PO John Przybyszewski	Abuse: Police Officer John Przybyszewski forcibly removed § 87(2)(b) to the hospital.	§ 87(2)(b)
D. PO Cisco Ortiz	Abuse: Police Officer Cisco Ortiz forcibly removed § 87(2)(b) to the hospital.	§ 87(2)(b)
E. PO John Przybyszewski	Discourtesy: Police Officer John Przybyszewski spoke discourteously to § 87(2)(b)	§ 87(2)(b)
F. PO John Przybyszewski	Abuse: Police Officer John Przybyszewski searched § 87(2)(b)	§ 87(2)(b)
G. PO John Przybyszewski	Abuse: Police Officer John Przybyszewski failed to provide § 87(2)(b) with a business card.	§ 87(2)(b)
H. PO Jon Wright	Abuse: Police Officer Jon Wright frisked § 87(2)(b)	§ 87(2)(b)
I. PO Cody Fortunato	Abuse: Police Officer Cody Fortunato frisked § 87(2)(b)	§ 87(2)(b)
§ 87(2)(g), § 87(4-b)	§ 87(2)(g), § 87(4-b)	§ 87(2)(g), § 87(4-b)
§ 87(2)(g), § 87(4-b)	§ 87(2)(g), § 87(4-b)	§ 87(2)(g), § 87(4-b)
§ 87(2)(g), § 87(4-b)	§ 87(2)(g), § 87(4-b)	§ 87(2)(g), § 87(4-b)

Case Summary

On October 19, 2021, § 87(2)(b) filed this complaint with IAB via phone. The CCRB received this complaint on October 25, 2021.

On September 13, 2021, at approximately 2:00 p.m., at § 87(2)(b) in Brooklyn, Police Officers Cisco Ortiz, John Przybyszewski, Cody Fortunato, and Jon Wright, all of the 66th Precinct arrived after § 87(2)(b) called 911 stating that his psychiatrist was hurting him. Upon the officers' arrival, it was learned that § 87(2)(b) called 911 after refusing a medical injection that medical personnel from the Department of Health and Human Hygiene were trying to give him. PO Przybyszewski, PO Fortunato, PO Wright, and PO Ortiz removed § 87(2)(b) to § 87(2)(b) Hospital in Brooklyn (**Allegations A-C: Abuse of Authority, § 87(2)(g) Allegation D: Abuse of Authority, § 87(2)(g)** PO Przybyszewski swore at § 87(2)(b) using the words "fuck" and "shit", searched his bag, and did not provide a business card (**Allegations E: Discourtesy, § 87(2)(g) Allegations F-G: Abuse of Authority, § 87(2)(g)** PO Wright and PO Fortunato also frisked § 87(2)(b) (**Allegations H-I: Abuse of Authority, § 87(2)(g)** § 87(2)(g), § 87(4-b)

No arrests or summonses resulted from this incident.

The investigation received body-worn camera (BWC) video footage from PO Wright, PO Fortunato, PO Przybyszewski, and PO Ortiz (**BR 02**). The relevant aspects of footage are discussed in further detail below.

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Cody Fortunato forcibly removed § 87(2)(b) to the hospital.

Allegation (B) Abuse of Authority: Police Officer Jon Wright forcibly removed § 87(2)(b) to the hospital.

Allegation (C) Abuse of Authority: Police Officer John Przybyszewski forcibly removed § 87(2)(b) to the hospital.

Allegation (D) Abuse of Authority: Police Officer Cisco Ortiz forcibly removed § 87(2)(b) to the hospital.

§ 87(2)(b) testified (**BR 03**) that on the date of the incident he was meeting his psychiatrist in front of a synagogue, who was there to give him a medical injection, and social worker was also present. § 87(2)(b) told his psychiatrist that he did not want the injection as he already took pills. § 87(2)(b) called 911 after refusing the injection and told the operator that his psychiatrist was hurting him, was a terrorist, and that officers were needed to keep the psychiatrist away from him. After officers arrived on scene, an ambulance arrived shortly after. PO Wright asked § 87(2)(b) what was wrong, to which § 87(2)(b) explained that his psychiatrist was trying to give him an injection, but § 87(2)(b) believed he was not supposed to be seeing a psychiatrist and did not have any mental illness. PO Fortunato and EMTs had spoken to the psychiatrist and social worker, but § 87(2)(b) did not know what was said. When EMTs and PO Fortunato walked back to § 87(2)(b) an EMT told § 87(2)(b) that he had to go to the hospital. PO Fortunato and PO Wright had also told § 87(2)(b) that he had to go to the hospital before § 87(2)(b) entered the ambulance.

PO Wright testified (**BR 11**), that when he arrived at the scene, § 87(2)(b) informed PO Wright that there were medical professionals on scene from a state medical team, which PO Fortunato had gone to speak to. However, PO Wright did not know what was said between PO Fortunato and medical personnel. § 87(2)(b) had also informed PO Wright that the doctors told him he had schizoid affective disorder. When the EMS came to speak to § 87(2)(b) EMS on scene stated that there was court order for § 87(2)(b) to take his medication. The EMS worker told § 87(2)(b) that they would go to the hospital, and the doctors would make sure that his medication was not poisoned. In response, § 87(2)(b) told EMS, "You're going to be killed. Take me to the hospital," and proceeded to get into the ambulance. PO Wright did not believe he or any officer had

any involvement in making the decision to remove § 87(2)(b) to the hospital; PO Wright believed that § 87(2)(b) made the decision himself to be taken to the hospital as § 87(2)(b) told EMS to take him.

PO Przybyszewski testified (BR 05), that prior to arriving on scene, he and PO Ortiz received a radio call stating that there was an irate EDP male yelling at § 87(2)(b) in Brooklyn and making threats towards others. PO Przybyszewski and PO Ortiz arrived on scene after PO Wright and PO Fortunato. To the best of PO Przybyszewski knowledge, EMS had made the decision to remove § 87(2)(b) to the hospital.

Per the Department Advocates Office, PO Ortiz resigned from the NYPD on October 29, 2021 (BR 18).

BWC for PO Fortunato (BR 13), from 02:50 to 03:30, PO Fortunato speaks to § 87(2)(b) psychiatrist and social worker alone. Medical personnel states that § 87(2)(b) was just released from the hospital, is refusing to take his medication, and has schizophrenia. Medical personnel further state that § 87(2)(b) has an order to take medication, which keeps renewing as § 87(2)(b) is not medication compliant. From 05:20 to 05:28, after the EMT finished speaking to § 87(2)(b) psychiatrist and social worker, he walks up to PO Fortunato and shakes his head up and down, stating something that cannot be heard. However, when in front of PO Fortunato, the EMT states, "If he's going to refuse it. It is ordered by the court." From 05:50 to 06:05, the EMT tells § 87(2)(b) "What we can do is take you to the hospital. If you feel like it's not right, you tell them and they do another evaluation on you" the EMT further states, "right now you have a court order that you have to get this shot." In response, § 87(2)(b) states, "You're going to get killed, take me to the hospital." The officers then proceeded to follow § 87(2)(b) into the ambulance once § 87(2)(b) gets in.

Patrol Guide Procedure 216-01 (BR 06), states that uniformed members of the service shall cooperate with ambulance/hospital personnel in every reasonable manner.

As BWC showed, EMS was aware that § 87(2)(b) had a court order stating that § 87(2)(b) had to take his medication. PO Fortunato's BWC showed EMS inform § 87(2)(b) that they would take him to the hospital and § 87(2)(b) could tell doctors if he felt something was wrong, but that there was a court order stating he had to take his medication. § 87(2)(g)

§ 87(2)(g)

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§ 87(2)(g)

§ 87(2)(g)

Allegation (E) Discourtesy: Police Officer John Przybyszewski spoke discourteously to § 87(2)(b).

Allegation (F) Abuse of Authority: Police Officer John Przybyszewski searched § 87(2)(b)

Allegation (G) Abuse of Authority: Police Officer John Przybyszewski failed to provide § 87(2)(b) with a business card.

§ 87(2)(b) testified (BR 03) that no officers ever offered him a business card. § 87(2)(b) did not allege that his bag was searched or that PO Przybyszewski spoke discourteously to him.

BWC for PO Przybyszewski (BR 14), from 00:54 to 01:30, shows when § 87(2)(b) gets into the ambulance and PO Przybyszewski follows him in. PO Przybyszewski then states, "let me see your bag" to which § 87(2)(b) states no. The bag PO Przybyszewski is referring to is a grey open-top reusable Target shopping bag, displaying the Target store logo. PO Przybyszewski again asks for the bag and § 87(2)(b) slides it down his arm and proceeds to fling it to the right side of where PO Przybyszewski is standing. The Target bag can be heard making contact with PO Przybyszewski's arm, and in response, the right side of PO Przybyszewski's body is slightly jolted

back causing PO Przybyszewski's BWC to shake for a second. The sound of coins can be audibly heard from the bag. PO Przybyszewski proceeds to state "The next fucking thing you throw at me, that's it, you understand? Cut that shit out. I didn't say one word to you, you're already tossing shit at me?" As he talks, PO Przybyszewski grabs § 87(2)(b) bag at the 1:23 minute mark, which landed on a counter in the ambulance, a few feet from where § 87(2)(b) is sitting, and proceeds pull the bag open (1:26). PO Przybyszewski holds the bag open for approximately two seconds and then places it back on the counter. From 04:35 to 05:22, § 87(2)(b) gives PO Przybyszewski his money and asks PO Przybyszewski to place it in his bag. PO Przybyszewski counts the money in front of § 87(2)(b) and states that he will put it in the bag and does not want to hear a word out of § 87(2)(b). § 87(2)(b) further stating, "because you're saying a lot of corrupt shit." PO Przybyszewski then proceeds to put the money in the bag. From 06:10 to 06:55, after § 87(2)(b) states that he was falsely arrested previously, PO Przybyszewski responded that § 87(2)(b) needs to take that up with the courts. PO Przybyszewski then proceeds to state that he has always treated § 87(2)(b) with respect, but § 87(2)(b) treated him disrespectfully and he was surprised and disappointed. PO Przybyszewski then states, "I've been doing a lot of shit today..." and that § 87(2)(b) needs to leave his attitude on the street and get checked at the hospital. PO Przybyszewski also proceeds to state, "Cut the shit out." As PO Przybyszewski talks, § 87(2)(b) sits still in the ambulance looking straight in front of him or looking at PO Przybyszewski when he tries to state something. From 11:55 to 12:40, § 87(2)(b) names an officer and tells PO Przybyszewski that the officer is a very bad cop. When PO Przybyszewski tells § 87(2)(b) he will let the cop know, § 87(2)(b) states, "You'll let him know, I'll let him know." PO Przybyszewski proceeds to tell § 87(2)(b) "Watch your fucking mouth." § 87(2)(b) asks PO Przybyszewski if the officer is married and says that the officers' wife is corrupted, that she should have never married the officer, and that Michael Meyers is going to do a lot of damage to her and proceeds to say that God told him he could do it. From 14:35 to 15:12, § 87(2)(b) is unbuckled from the ambulance seat and walked into the hospital, with PO Przybyszewski following along. BWC does not show PO Przybyszewski provide § 87(2)(b) with a business card at any point.

PO Przybyszewski testified (BR 05) that when he arrived at the scene, § 87(2)(b) was already being escorted onto the ambulance. PO Przybyszewski admitted to using profanity with § 87(2)(b) once they entered the ambulance because § 87(2)(b) threw his bag at PO Przybyszewski's arm. PO Przybyszewski asked § 87(2)(b) for his bag because § 87(2)(b) could not be holding onto the bag while in the ambulance. PO Przybyszewski was shocked at having the bag thrown at him and caught off guard, thus he stated to § 87(2)(b) "The next fucking thing you throw at me, that's it, you understand? Cut that shit out. I didn't say one word to you, you're already tossing shit at me?" PO Przybyszewski was trying to be stern and believed he would get § 87(2)(b) to comply by speaking to him that way. Before throwing the bag at PO Przybyszewski, PO Przybyszewski believed that there were coins in the bag as he was able to hear the coins moving around in the bag and did not have reason to believe § 87(2)(b) was armed. However, when § 87(2)(b) bag hit PO Przybyszewski, PO Przybyszewski felt a heavy weight from the bag, thus believing there was probable cause to search the bag and confirm that there were no weapons in it. PO Przybyszewski further stated that he had reason to believe § 87(2)(b) possessed a weapon because § 87(2)(b) at first held onto the bag tightly and then proceeded to roll it into a ball and throw it at PO Przybyszewski. PO Przybyszewski did not recall removing anything from the bag. PO Przybyszewski could only recall counting § 87(2)(b) money. PO Przybyszewski then accompanied § 87(2)(b) to the hospital. During the ride § 87(2)(b) made statements such as "You're going to get killed by Michael Meyers," "Bruce Lee is going to kick your ass," and that Michael Meyers would rape the wife of an officer that arrested § 87(2)(b) in the past. § 87(2)(b) would also fidget, which PO Przybyszewski described as § 87(2)(b) would begin to sweat and spit. In response, PO Przybyszewski told § 87(2)(b) "Watch your fucking mouth," and recalled also stating, "You're saying a lot of corrupt shit," "I've been doing a lot of shit today..." and "Cut the shit out." PO Przybyszewski believed that by using profanity, § 87(2)(b) would realize his statements were the

reason for him being in the situation he was in and that making statements like that would only make the situation worse when at the hospital. PO Przybyszewski also used profanity as he believed behaving stern would make § 87(2)(b) calm down.

PO Przybyszewski further testified (BR 05) that he did not provide § 87(2)(b) with a business card because § 87(2)(b) never asked for one. To PO Przybyszewski's knowledge a business card is provided when requested and when BWC activation is a must. PO Przybyszewski further stated that a business card is only provided for a frisk or search when a civilian fits the description of a crime, but they are ultimately not arrested. As for EDP removals where the civilian had not committed a crime, a business card would not be provided due to a frisk and search being conducted for officer and EMS safety, which was the circumstance for § 87(2)(b). PO Przybyszewski disclosed that prior to this incident, he was familiar with § 87(2)(b) as PO Przybyszewski was on scene when § 87(2)(b) was arrested in August of 2020 for breaking his landlord's door. However, PO Przybyszewski had never had any personal interaction with § 87(2)(b) that time.

Patrol Guide Procedure 200-02 (BR 09) states members of service must respect the dignity of each individual and render services with courtesy and civility. Officers may not use profanity when it "[serves] no legitimate purpose but to belittle" a civilian (PD v. Pichardo, DAO DCT Case Number 2015-15012) (BR 20).

In People v. De Bour, 40 N.Y.2d 210, (BR 08) the court found officers can frisk an individual if they have a reasonable suspicion that the individual has a weapon.

NYPD Patrol Guide Procedure 212-11 (BR 16) further specifies that if a frisk reveals an object that may be a weapon or dangerous instrument, then officers may search only those interior portions of the stopped person's personal property to remove the object.

In People v. Williams, 122 A.D.3d 502, (BR 15) the court found that a search of a bag can be justified by exigent circumstances if it is within the grabbable area of the suspect who is not handcuffed, and the officers possess reasonable suspicion that the bag contains a weapon.

NYC Administrative Code Section 14-174 (BR 07) instructs officers, who engage in law enforcement activity, such as searches of persons or property, to offer a business card at the conclusion of such activity that does not result in an arrest or summons.

Per Patrol Guide Procedure 200-02, PO Przybyszewski did not treat § 87(2)(b) with respect, nor did he accompany § 87(2)(b) to the hospital with courtesy and civility, as PO Przybyszewski consistently directed profanity at § 87(2)(b) § 87(2)(g)

Per BWC and PO Przybyszewski's testimony, PO Przybyszewski arrived on scene at the point that § 87(2)(b) was going to be put in the ambulance, thus not hearing when § 87(2)(b) initially threatened EMS. PO Przybyszewski's belief that § 87(2)(b) could have a weapon on him did not arise until § 87(2)(b) threw his bag at PO Przybyszewski's arm and it felt heavy. PO Przybyszewski also noted that the bag contained coins, which could easily explain the bag's weight. Additionally, while § 87(2)(b) was not handcuffed, after the bag was thrown, it was no longer within a grabbable area and thus this further lessened any additional concern of § 87(2)(b) accessing something in the bag. § 87(2)(g)

PO Przybyszewski admitted to conducting a search of § 87(2)(b) bag but stated that he did not provide § 87(2)(b) a business card as it was not needed since § 87(2)(b) was being removed to the hospital as an EDP, and had not committed a crime, nor did § 87(2)(b) ask for any card. However, per the NYC Administrative Code Section 14-174, a business card should be provided for a search of property that does not result in an arrest or summons and PO Przybyszewski had ample opportunity to provide a card given that he accompanied § 87(2)(b) to the hospital.

§ 87(2)(g)

Allegation (H) Abuse of Authority: Police Officer Jon Wright frisked § 87(2)(b)

Allegation (I) Abuse of Authority: Police Officer Cody Fortunato frisked § 87(2)(b)

§ 87(2)(b) testified (BR 03) that once in the ambulance, PO Wright and PO Fortunato frisked him. PO Wright and PO Fortunato frisked § 87(2)(b) near his penis and buttocks over his clothing.

PO Wright testified (BR 11), that when speaking to § 87(2)(b) upon arrival, PO Wright found § 87(2)(b) to be highly agitated, speaking rapidly, and believed people were after him. § 87(2)(b) also kept his arms close to himself around his belt line. § 87(2)(b) had also disclosed that he had schizoid affective disorder. Upon hearing § 87(2)(b) state to EMS “You’re going to be killed. Take me to the hospital,” PO Wright believed that § 87(2)(b) could have been keeping his arms near his body to conceal or protect a weapon that he may have had on him for protection against medical personnel. Thus, PO Wright believed § 87(2)(b) was making death threats to EMS and had an intent to harm. When asked if there were any visible bulges on § 87(2)(b) clothing, PO Wright could only remember that § 87(2)(b) pockets did not lay completely flat against his body, thus his pockets could have contained “something.” Once § 87(2)(b) was in the ambulance, PO Wright wanted to confirm that § 87(2)(b) had no weapons on him that could hurt EMS or the escorting officers. PO Wright asked § 87(2)(b) to stand and proceeded to pat him down with the help of PO Fortunato. PO Wright did not feel any weapons on § 87(2)(b) during the pat down, so § 87(2)(b) was allowed to sit back down on the ambulance bench. According to PO Wright, if civilians are being removed to the hospital and they make statements that indicate they will harm themselves or others, specifically EMS workers or any officers in the ambulance with the civilian, then an officer will generally frisk the civilian for any possible weapons.

PO Przybyszewski testified (BR 05) that he believed § 87(2)(b) was frisked because in circumstances where EMS has decided to remove a civilian to the hospital or officers have determined the civilian is a threat to themselves or others, the civilian must be frisked prior to being put in the ambulance.

BWC for PO Wright (BR 12), from 06:05 to 06:20, § 87(2)(b) tells EMS twice that they are going to get killed.

BWC for PO Przybyszewski (BR 14), from 01:30 to 02:00, in the ambulance, PO Wright tells § 87(2)(b) to stand and that he will check him for weapons. § 87(2)(b) goes to reach into his pocket, thus PO Wright pulls § 87(2)(b) hand out of his pocket and tells § 87(2)(b) to stand. Once standing, PO Wright and PO Fortunato pat § 87(2)(b) pants down, but find no weapons as § 87(2)(b) is allowed to sit back down.

In People v. DeBour 40 N.Y.2d 210 (BR 08), the court held that an officer could frisk an individual if the officer reasonably suspects that the individual is armed and dangerous.

Patrol Guide Procedure 221-13 (BR 10) states that when an EDP has been restrained, a uniformed member of service may remove property that is dangerous to life or will facilitate escape.

PO Wright testified that because of the statements made by § 87(2)(b) specifically to hurt medical personnel, PO Wright suspected that § 87(2)(b) could be armed and dangerous to EMS as well as any officer that escorted him to the hospital. PO Wright’s suspicion was bolstered by the fact that per his testimony, § 87(2)(b) pockets did not lay completely flat and his hands hovered near his waist. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g), § 87(4-b)

§ 87(2)(g), § 87(4-b)

§ 87(2)(g), § 87(4-b)

§ 87(2)(g), § 87(4-b)

§ 87(2)(g), § 87(4-b)

Civilian and Officer CCRB Histories

- § 87(2)(b)
- PO Fortunato has been a member-of-service for four years and this is the first CCRB complaint to which he has been a subject.
- PO Przybyszewski has been a member of service for four years and has been a subject in one complaint and one allegation, none of which were substantiated. § 87(2)(g)
- PO Wright has been a member of service for eighteen years and has been a subject in three complaints and three allegations, none of which were substantiated. § 87(2)(g)

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- As of January 19, 2022, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this incident (BR 01).

• [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad: 14

Investigator: Haeley Galeote
Signature

Inv. Galeote
Print Title & Name

12/20/2022
Date

CCRB Case # 202106456

Squad Leader: Cassandra Fenkel IM Cassandra Fenkel 12/20/2022
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date